

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

HEALTHNOW NEW YORK, INC.,

Plaintiff,

v.

17-CV-310
ORDER

DINO ROMANO, individually and doing business as HEALTH NOW NETWORKS, LLC and HEALTH NOW WELLNESS MANAGEMENT, INC.,

Defendants.

On April 10, 2017, the plaintiff, HealthNow New York Inc. ("HealthNow"), filed a complaint alleging trademark infringement under § 32 of the Lanham Act, 15 U.S.C. § 1114; unfair competition under § 43 of the Lanham Act, 15 U.S.C. § 1125; trademark infringement under New York common law; unfair competition under New York common law; and trademark dilution under New York General Business Law § 360-l. Docket Item 1. The defendants failed to appear and defend this action, and the time to do so expired. As a result, the plaintiff asked the Clerk of Court to enter a default, Docket Item 13, which was entered accordingly on July 20, 2017, Docket Item 14. HealthNow then moved for a default judgment, Docket Item 16, and this Court granted HealthNow's motion, Docket Item 17.

On October 11, 2018, this Court referred the case to United States Magistrate Judge Hugh B. Scott to issue a Report and Recommendation ("R&R") on the amount of damages, lost profits, attorney's fees, and costs. Docket Item 18. On November 28, 2018, Judge Scott issued an R&R finding that the plaintiffs were entitled to recover

\$1,002.00 in costs and \$15,612.00 in attorney's fees. Docket Item 21. The parties did not object to the R&R, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). The court must conduct a de novo review of those portions of a magistrate judge's recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Scott's R&R as well as the parties' submissions to him. Based on that review and the absence of any objections, the Court accepts and adopts Judge Scott's recommendation as to the amount of attorney's fees and costs that the plaintiffs are entitled to recover.

For the reasons stated above and in the R&R, the plaintiffs are entitled to recover \$1,002.00 in costs and \$15,612.00 in attorney's fees from the defendants. The Clerk of the Court shall issue judgment in favor of the plaintiff and against the defendants for \$16,614.00 and close the file.

SO ORDERED.

Dated: March 5, 2019
Buffalo, New York

s/ Lawrence J. Vilardo
LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE